

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1703 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

LALITABEN R KAMDAR

Versus

BAL VIKAS YOJANA ADHIKARI

Appearance:

MR PM RAVAL for Petitioner
MR DD VYAS for Respondent No. 1
NOTICE SERVED for Respondent No. 3

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 30/06/2000

ORAL JUDGEMENT

#. The petitioner has filed this petition under Article 226 of the Constitution of India read with Articles 14 & 16 thereof challenging the orders of the respondent dated 4-2-1988 terminating the services of the petitioner with

immediate effect.

#. It appears from the record that the petitioner was appointed by the respondent as Anganwadi worker by order dated 21st October, 1985 which is at Annexure-A to the petition. The petitioner was to get honorarium of Rs.200/- per month.

#. That Annexure-B to the petition is the certificate issued by the Joint Director, Health and Medical Services stating that the petitioner had undergone training as Anganwadi worker from 1-11-85 to 31-1-86. It is contended that all of sudden by the aforesaid order dated 4-2-1988, services of the petitioner were terminated on the ground that the petitioner was irregular in attending the work.

#. The petitioner has contended that the aforesaid order of termination of her services is illegal and no opportunity of hearing was given to her and no notice was served upon her and no inquiry was conducted against her for the aforesaid alleged lapses on her part, therefore, order of termination of services was illegal being in violation of principles of natural justice. The petitioner has therefore prayed for issuance of appropriate writ, order or direction for quashing and setting aside the aforesaid order dated 4-2-1988. The petitioner has also prayed that the respondent be prevented from implementing the said orders of terminating services of the petitioner.

#. On receipt of the said petition, Rule was issued and interim relief was granted in terms of para 13 (B) of the petition.

#. Notice was served upon the respondent. The respondent made appearance but the affidavit has been filed only on 12th June, 2000 and some documents have also been produced along with said affidavit filed on behalf of the respondent.

#. I have heard the learned advocate for the parties and have also perused the papers.

#. It has been mainly contended on behalf of the petitioner that the petitioner was appointed by order dated 21st March, 1985. There is no serious dispute about the same and even as regards the training undergone by the petitioner, there is no much dispute.

#. The petitioner has contended that her services have

been terminated by order dated 4-2-1988 without any inquiry. It is by and large not disputed that no inquiry was conducted and no notice was issued and the same was not served upon the petitioner. Even an opportunity of being heard was not given to the petitioner to defend her case. The respondents straightaway passed order for termination of her services on 4-2-1988.

##. It has been contended on behalf of the respondents that the petitioner was not regular in attendance and there were complaints against her. Some instances have also been shown by filing documents along with the affidavit. The President of Chotila Taluka Panchayat has addressed a letter stating that the petitioner is irregular in attending the said center and the refreshment supplied to the children is not adequate in quantity. That therefore, the petitioner should be immediately relieved from employment.

##. Now it has to be seen that the President, Chotila Taluka Panchayat has made this complaint on the basis of the complaint received from the Sarpanch of the village. Taking into consideration the said letter written by the President, it is clear that the President had not written the said letter out of his personal knowledge but the same was written pursuant to the information derived from the Sarpanch of the village. As regards another document of 1987, it seems that several workers have been served with the aforesaid intimation directing them to stay at the village in which they were appointed. But that appears to be a common instruction to all Anganwadi workers and it has no connection with the grievance made by the Sarpanch contained in the aforesaid letter of the President, Chotila Taluka Panchayat. Therefore, this intimation dated 4-3-1987 cannot be used as weapon against the petitioner. It would be seen that the said intimation dated 4-3-1987 only says that it is not proper for them to stay in some village and serve at other village, therefore, they should reside in the village in which they have been appointed to work. The very letter does not show that they were irregular in their attendance or that refreshment supplied was inadequate in quantity. Therefore, it has no relevance or bearing on the facts of the case before this court.

##. The third document dated 21st December, 1987 is letter addressed by the Regional Deputy Director, Health Services at Rajkot. It has been addressed to the District Health Officer at Surendranagar interalia stating that some complaints were received from the villagers that the center is not functioning regularly

and the food meant for the children is not being used for the children and the medicine meant for Anganwadi is not being used for the purpose for which it is supplied. The letter also directs the District Health Officer to inquire into the matter and do the needful.

##. Thereafter, it is not on record as to whether the District Health Officer inquired into the matter and if yes, what was outcome of the said inquiry. No such material has been placed on record.

##. Considering the papers produced on record, it is true that there were some complaints against the petitioner but when the complaint was there, it is required to be inquired into and action can be taken only after such inquiry. Even if we consider that this was an employment on honorarium basis, and hence strict rules of inquiry which are applicable to the regular servants may not be applied to this case, even then atleast, allegations or complaints against the petitioner have to be placed to the notice of the petitioner. A show cause notice could have been issued and at least an inquiry could have been undertaken, but nothing of this sort has been undertaken in this case. It therefore becomes clear that the petitioner's services have been terminated without affording of any opportunity of being heard to the petitioner. Therefore, it is clear case of violation of principles of natural justice, which is impermissible in public employment.

##. Under these circumstances, it is extremely clear that the orders of termination suffers from the vice as aforesaid and the order has been passed against the principles of natural justice, therefore, such action cannot be sustained particularly, when it has been passed by public body.

##. It is therefore clear that the aforesaid order has been passed in violation of principles of natural justice and therefore, it cannot be sustained. The order is illegal and unconstitutional. No other argument has been advanced before me. However, the learned advocate for the respondent has submitted that since there were complaints against the petitioner, she should atleast be told to be regular in order to see that there is no further complaint in future against her. It is true that the petitioner is in public employment and therefore, she should be regular and punctual in attending her duties. It is expected that she should take all possible care to see that the food and medicines meant for beneficiaries, are supplied to the beneficiaries in adequate quantity

and no malpractice is allowed to be done at any stage at any point of time. It is further hoped that the petitioner will take suitable notice of the aforesaid circumstances. She will also take notice of the fact that there are some complaints against her from different corners and therefore, she should also try to see that there is improvement in the conduct and improvement in her attendance and improvement in her approach to the children. In view of aforesaid observations, I pass the following order.

##. This petition is allowed. The order of the respondents dated 4-2-1988 terminating the services of the petitioner is quashed and set aside. The respondent is prevented from implementing and enforcing the impugned order dated 4-2-1988. Rule is made absolute to the above extent. Considering the facts and circumstances of the case, there shall be no order as to costs.

Date : 30 /6/2000 [D. P. Buch, J.]

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